IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MICHAEL B. KING,	:	
	:	
Plaintiff	:	CIVIL ACTION
	:	
vs.	:	1:91-cv-1770-HTW
	:	
BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF GEORGIA, et. al.,	:	
	:	
Defendants	:	

ORDER OF COURT

This matter is currently before this court on the defendants' motion for summary judgment, the plaintiff's second motion to extend discovery, the plaintiff's second motion to extend the time to respond to the defendants' motion for summary judgment, and the plaintiff's motion for reconsideration of this court's Order of February, 6, 1992.

FACTS

Plaintiff, Michael B. King, initially enrolled in Georgia State University Law School, (hereinafter, the "Law School"), in September, 1984. In the spring of 1986, the Law School dismissed King, stating that King had failed to maintain the Law School's required grade point average. King petitioned the Committee on Student Affairs for readmission, and the Committee granted his petition. King remained on probation for three quarters; his grade point average, however, not only failed to improve, but declined. The Law School accordingly did not permit King to continue his legal studies at Georgia State.

King then petitioned the Committee on Student Affairs for permission to continue his legal studies at the Law School; the Committee this time denied his application. King then appealed the Committee's decision to Dean Marjorie

Knowles, Vice President Brewer, Acting President Suttles, and the Board of Regents. All denied King's request.

After this denial, King filed his first law suit against the Law School in March, 1988; in that action plaintiff alleged the same causes of action against defendants as those plaintiff has submitted in the instant case. The district court, (n an Order issued by Judge Hall), dismissed King's complaint, and the Eleventh Circuit Court of Appeals affirmed in a per curiam opinion. The United States Supreme Court denied King's petition for certiorari.

In the summer of 1989, King again sought readmission to the Law School, but he submitted his application too late for consideration for the class of 1989-1990. During the spring of 1999, however, the Admissions Committee considered King's application for admission to the class of 1990-1991. After review, the Admissions Committee denied King's application for admission.

King then appealed the decision of the Admissions Committee Dean Knowles, who reviewed the decision for indications of arbitrariness, discrimination, or any other unlawful rationale in denying King's application for entry to the Law School. Knowles upheld the decision of the Admissions Committee, and King then appealed her decision to Dr. Fred Massey, acting Vice President for Academic Affairs. Dr. Massey also upheld the Committee's decision, and King next appealed to President Palms; Palms again upheld the Committee's decision. King finally appealed the decision to the Board of Regents of the University System, who, acting as a body, reviewed the record and various decisions, and then upheld the decision to deny admission to the Law School to King.

DISCUSSION

a. Plaintiff's Motion for Reconsideration:

This matter has already been before this court on a motion from plaintiff to compel deposition, a motion from plaintiff to extend the time to respond to the defendant's motion for summary judgment. This matter has also been before this court on motions from defendants for a protective order, and on motions from defendants to stay discovery.

The court entered an Order in this matter on February 6, 1992, which denied the motion from plaintiff to compel deposition, denied the motion from plaintiff to extend discovery, and denied the motion from plaintiff to extend the time to respond to the defendant's motion for summary judgment. Plaintiff now asks that this court reconsider that Order, but offers this court no compelling reason why this court should alter the substance of the Order. This court accordingly DENIES plaintiff's motion for reconsideration.

B. Plaintiff's Second Motion to Extend Discovery, and Plaintiff's Second Motion to extend the Time to Respond to the Defendants' Motion for Summary Judgment:

This matter is now before this court on new motions by plaintiff not only to extend discovery in this matter, but to extend plaintiff's time to respond to the defendant's motion for summary judgment. This court has already denied these motions by previous Order, and has declined, within the framework of this Order, to reconsider that Order. Plaintiff, moreover, has offered this court no new or compelling reason why this court should grant these motions on this occasion. This court accordingly DENIES plaintiff's second motion to extend discovery, and plaintiff's second motion to extend the time to respond to the defendants' motion for summary judgment.

C. Defendants' Motion for Summary Judgment:

This matter is finally before this court on the defendant's motion for summary judgment. Although

defendants offer three grounds why this court should grant it motion for summary judgment, this court will consider only one, namely, defendants' contention that plaintiff's claims are mere conclusory allegations without substantiation or factual support.

(a) Summary Judgment Standard:

Summary judgment is appropriate if the moving party establishes that there is no genuine issue as to any material fact and that he is entitled to judgment as a matter of law. Carlin Communication, Inc. v. Southern Bell Tel & Tel. Co., 802 F.2d 1352, 1356 (11th Cir. 1986); Warrior Tombigbee Transportation Co., Inc. v. M/V Nan Fung, 695 F.2d 1294, 1296 (11th Cir. 1983); Fed.R.Civ.P. 56(c). To determine if the moving party meets its burden of proof, the court must view all evidence and inferences to be drawn from it in a light most favorable to the party opposing the motion. Carlin

Communication, 802 F.2d at 1356; Sweat v. Miller Brewing Co., 708 F.2d 655 (11th Cir. 1983).

The Supreme Court recently addressed the burdens of proof which each party must carry on a motion for summary judgment and stated that:

> [T]he plain language of Rule 56(c) mandates the entry of summary judgment after adequate time for discovery and upon motion against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial. In such a situation, there can be "no genuine issue as to any material fact," since a complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial.

Celotex Corp. v. Catrett, 477 U.S. 317, 106 S.Ct. 2548, 2552-53, L.Ed.2d 265 (1986). The nonmoving party is

required to identify specific facts which demonstrate that there is a genuine issue for trial and may not rest on the allegations or denials in its pleading. Celotex, 106 S.Ct. at 2553, Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 106 S.Ct. 2505, 2510, 91 L.Ed.2d 202 (1986). However, in order to survive defendant's motion, plaintiff need only present evidence from which a jury might return a verdict in his favor. If he does so, there is a genuine issue of fact that requires a trial. Anderson, 106 S.Ct. at 2414-15.

Defendants now contend that this court should grant its current motion for summary judgment, since King's current motion fails to alert defendants, with any specificity, as to the precise nature of his claims against them. This court agrees. This court has reviewed King's complaint, and notes that King has asserted no facts in support of his allegations of discrimination. King's complaint instead merely states that the law school denied his application for

admission; the complaint then asserts, in conclusory fashion, that the Law School's actions were discriminatory.

As the Eleventh Circuit stated in Peppers v. Coates, 887 F.2d 1493, 1498 (11th Cir. 1989), conclusory allegations do not suffice:

> [W]hen a motion for summary judgment is made and supported according to Rule 56, the nonmoving party's response must set forth specific facts showing a genuine issue for trial. Fed.R.Civ.P. 56(e). If the party's response consists of nothing more than a repetition of his conclusory allegations, the district court must enter summary judgment in the moving party's favor. (Citation omitted).

In this case, of course, plaintiff has failed to submit to this court any response to defendant's summary judgment motion; plaintiff's case, therefor, rests entirely on the conclusory, unsupported allegations of this complaint. Defendants, by

contrast, have submitted affidavits to this court which rebut the assertions found in King's complaint.

In this court's view, summary judgment in this matter is appropriate, especially where, as here, King has presented no evidence to this court to sustain his contentions. This court, therefore, after due consideration, GRANTS defendants' motion for summary judgment and DIRECTS the clerk of court to DISMISS this case.

SO ORDERED, this 9th day of September, 1992.

HORACE T. WARD
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
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MICHAEL B. KING	:	
	:	CIVIL ACTION
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BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF GEORGIA, et al.	:	

JUDGMENT

This action having come before the court, Honorable Horace T. Ward, United States District Judge, for consideration of defendants' motion for summary judgment, and the court having granted defendants' motion, it is

Ordered and Adjudged that the plaintiff recover nothing, that his complaint be, and the same hereby is, **dismissed,** and that the defendants recover of the plaintiff their costs of action.

Dated at Atlanta, Georgia, this 14th day of September 1992.

LUTHER D. THOMAS, CLERK

By: _____
Deputy Clerk